

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ROGELIO CARLOS III and  
MYRNA CARLOS,

Plaintiffs,

VS.

CIVIL NO. SA-16-CA-251-FB (RBF)

CARLOS CHAVEZ, VIRGILIO GONZALEZ, \$  
JAMES YBARRA, MARK DELGADO, \$  
CITY OF SAN ANTONIO, SAN ANTONIO \$  
POLICE DEPARTMENT, DETECTIVE \$  
JOHN DOE, NATIONAL \$  
NEUROMONITORING SERVICES, LLC, \$  
NEURODIAGNOSTICS AND \$  
NEUROMONITORING INST., INC., \$  
SOUTH TEXAS NEUROMONITORING, \$  
WILLIAM VANNES, and MRIBEL \$  
GOMEZ, \$

Defendants.

**ORDER ACCEPTING REPORTS AND RECOMMENDATIONS OF THE**  
**UNITED STATES MAGISTRATE JUDGE**

The Court has considered the Report and Recommendation of United States Magistrate Judge filed in the above-captioned cause on January 3, 2018 (docket #120), and the Report and Recommendation of United States Magistrate Judge filed on June 20, 2018 (docket #133). According to the CM/ECF system, both Reports and Recommendations were electronically transmitted to all parties on January 3, 2018, and June 20, 2018, respectively. To date, the docket sheet reflects no objections to either of the Reports and Recommendations have been received.<sup>1</sup>

<sup>1</sup> Any party who desires to object to a Magistrate's findings and recommendations must serve and file his, her or its written objections within fourteen days after being served with a copy of the findings and recommendation. 28 U.S.C. § 636(b)(1). If service upon a party is made by mailing a copy to the party's last known address, "service is complete upon mailing." FED. R. CIV. P. 5(b)(2)(C). If service is made by electronic means, "service is complete upon transmission." *Id.* at (E).

Because no party has objected to either of the Magistrate Judge's Reports and Recommendations, the Court need not conduct a de novo review. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). The Court has reviewed both Reports and finds the reasoning in each to be neither clearly erroneous nor contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989). The Recommendations shall therefore be accepted pursuant to 28 U.S.C. § 636(b)(1) such that the Rule 12(b)(1) Motions to Dismiss filed by defendants National Neuromonitoring Services, LLC, Neurodiagnostics and Neuromonitoring Institute, Inc., South Texas Neuromonitoring, Maribel Gomez, and William VanNess, M.D. (the Neuromonitoring defendants) (docket numbers 73 and 75) shall be DENIED; the City defendants/cross-plaintiffs' opposed motions for leave to file cross-claims against the Neuromonitoring defendants (docket numbers 84 and 97) shall be DENIED; and the City defendants/cross-plaintiffs' alternative request to designate the Neuromonitoring defendants and Dr. Bruggerman as responsible third parties (docket numbers 85 and 96) shall also be DENIED.

Accordingly, it is hereby ORDERED that the Report and Recommendation of the United States Magistrate Judge filed in this cause on January 3, 2018 (docket #120), and the Report and Recommendation of the United States Magistrate Judge filed in this cause on June 20, 2018 (docket #133) are ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that: (1) Defendants', National Neuromonitoring Services, L.L.C.; Neurodiagnostics and Neuromonitoring Inst., Inc.; South Texas Neuromonitoring, and Maribel Gomez, Rule 12(b)(1) Motion to Dismiss (docket #73), and Defendant's Motion to Dismiss filed by defendant William Vanness, M.D. (docket #75) are DENIED; (2) Defendant/Cross-Plaintiff the City of San Antonio's Motion for Leave of Court to File Crossclaims Against Defendants/Cross-Defendants National Neuromonitoring Services, L.L.C., Neurodiagnostics and Neurotransmitting, Inc., South Texas Neuromonitoring, William Vanness, M.D. and Maribel Gomez (docket #84) and Defendants/Cross-Plaintiffs Carlos Chavez, Virgilo

Gonzalez, James Ybarra, Mark Delgado, Detective John Doe's Opposed Motion for Leave of Court to File Crossclaims Against Defendants/Cross-Defendants National Neuromonitoring Services, L.L.C., Neurodiagnostices and Neuromonitoring Inst., Inc., South Texas Neuromonitoring, William Vanness, M.D. and Maribel Gomez (docket #97) are DENIED; and (3) Defendant the City of San Antonio's Motion for Leave to Designate Responsible Third Parties (docket #85) and Defendants Carlos Chavez, Virgilo Gonzalez, James Ybarra, Mark Delgado, Detective John Doe's Opposed Motion for Leave to Designate Responsible Third Parties (docket #96) are DENIED.

It is so ORDERED.

SIGNED this 13th day of July, 2018.



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FRED BIERY  
UNITED STATES DISTRICT JUDGE